

UNITED STATES DISTRICT COURT

FILED

November 30, 2021

for the

Nathan Ochsner, Clerk of Court

Southern District of Texas

Sealed

Public and unofficial staff access
to this instrument are
prohibited by court order

United States of America

v.

Nitza Mayanin Portillo Hernandez,
Edwin Zavala Chavarria, Kevin Abel Soriano,
Adrian Pacheco Duarte, and Rolando Aguirre

Case No.

4:21-mj-2514

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 2019 - November 2021 in the county of Brazos and Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

Title 18 U.S.C. Section 1344
Title 18 U.S.C. Section 1028
Title 18 U.S.C. Section 371Bank Fraud
Fraud and related activity in connection with identification documents
Conspiracy

This criminal complaint is based on these facts:

Please see attached Affidavit in Support of Criminal Complaint


☒ Continued on the attached sheet.

Complainant's signature

Andres Gomez, United States Postal Inspector

Printed name and title

Sworn to before me telephonically.

Date: 11/30/2021

Judge's signature

City and state: Houston, Texas

Christina Bryan, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Andres Gomez, being duly sworn, hereby depose and say:

I am a Postal Inspector (PI) with the U.S. Postal Inspection Service (USPIS) and have been so employed since May 2019. I am currently assigned to the USPIS Mail Theft-Mail Fraud Team, which is tasked with the investigation of complex mail theft crimes, including but not limited to, credit card fraud, check fraud, money order fraud and identity theft. I was previously a Special Agent with U.S. Department of Health & Human Service for approximately nine years. I have gained experience in conducting such investigations through training in seminars, classes and everyday work-related investigations. I have personally participated in investigations involving violations of federal law regarding mail theft and criminal groups that engage in such unlawful activity. As an Inspector, I am authorized to investigate violations of the laws of the United States and to seek forfeiture of property under authority of the United States.

PURPOSE OF AFFIDAVIT

I make this affidavit in support of a Criminal Complaint against Nitza Mayanin Portillo Hernandez (hereinafter PORTILLO); Edwin Zavala Chavarria (hereinafter CHAVARRIA); Kevin Abel Soriano (possible alias, hereinafter SORIANO); Adrian Pacheco Duarte (hereinafter DUARTE); and Rolando Aguirre (possible alias, hereinafter AGUIRRE). As described below, this affidavit sets forth probable cause to believe the above listed individuals violated Title 18 U.S.C. §1344, Bank Fraud; Title 18 U.S.C. §1028, Fraud and related activity in connection with identification documents; and Title 18 U.S.C. § 371, Conspiracy. Several conspirators have been indicted in other jurisdictions.

Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. This affidavit is based on my own personal knowledge, gained from my participation in this investigation; information gained from my training and experience; information received from other law enforcement sources; merchant video and interviews; forensic evidence; and open source information. Not all the facts known to me have been included in this affidavit, only those

necessary to establish probable cause that the above-cited violations were committed by the above-named suspects.

During the period of December 2019 to November 2021, the USPIS received numerous complaints of mail theft and check fraud from the Greater West Houston Area, including addresses in Katy, Harris County, and Fort Bend County as well as from College Station, TX and Bryan, TX. These complaints involved checks being stolen from blue collection boxes throughout the areas mentioned. USPIS discovered that other law enforcement agencies throughout the U.S. were investigating the same group. The investigation revealed the group would clone checks from various companies that hired migrant workers such as dairy farms and other agriculture businesses. The group would have someone work at a place to receive a paycheck and then take the authentic paycheck and duplicate it over and over. The group would then go to stores that are used to cash those types of checks and fraudulently negotiate a large volume of cloned checks. Some of the same suspects were identified through surveillance video and fingerprints as being in various cities, including Juan Carlos Tosta Fonseca and Edwin Chavarria. The group conducted their scheme in Florida, Louisiana, Texas, Maryland, Pennsylvania, Michigan, Oregon, Nebraska and Washington State for an approximate loss of \$1.3 million dollars. Below are summaries of investigations into this group by other law enforcement agencies throughout the United States:

RELEVANT CONDUCT IN OTHER JURISDICTIONS

Alliance Dairies Investigation December 2019, Florida

On December 23, 2019, multiple Hispanic suspects cashed 80 counterfeit payroll checks on a valid Drummond Bank account belonging to Alliance Dairies (Alliance Branford LLC) in Trenton, FL. The suspects conducted their transactions at three Drummond Banks, which were in Cross City, Old Town, and Chiefland, Florida. The total loss was approximately \$97,000. On the day of the event, a group of Hispanic suspects came into the bank, cashed the counterfeit checks, left, and came back wearing different clothing and cashed more checks with different names. One of the witnesses at the bank believed that up to six suspects came in three different waves to cash checks at least one of the bank's branches. At least six suspects from the Alliance Dairies case were later identified as passing counterfeit business payroll checks elsewhere.

Skanska Construction Investigation – September 2020, Florida

On September 11, 2020, multiple Hispanic suspects cashed 77 counterfeit payroll checks on a valid Bank of America account belonging to Skanska Construction in Escambia County, Florida. The total loss was approximately \$110,000. Four different check cashing businesses reported that groups of five to six Hispanic males entered the business with masks on in waves and cashed the counterfeit checks using fraudulent identification. At least three suspects from the Skanska Construction case were later identified as passing counterfeit business payroll checks elsewhere.

Skanska Construction Investigation Part – January 2021, Florida

On January 15, 2021, multiple Hispanic suspects wearing face masks cashed 73 counterfeit payroll checks on a valid Bank of America account belonging to Skanska Construction in Escambia County, Florida. The total loss was approximately \$60,000. The entered three separate businesses using fraudulent identifications, cashed one round of checks, left to change clothing, and then re-entered with different identifications and checks. At least one suspect from the second Skanska Construction case was later identified as passing counterfeit business payroll checks elsewhere.

Archer Western Investigation – February 2021, Florida

On February 12, 2021, multiple Hispanic suspects cashed 25 counterfeit payroll checks on a valid Wells Fargo Bank account belonging to Archer Western Construction in Boynton Beach, Florida. The total loss was approximately \$28,000. The store manager advised the men entered the business in groups twice. At least three suspects from the Archer Western case were later identified as passing counterfeit business payroll checks elsewhere.

Gilman Farms Investigation – March 2021, Florida

On March 19, 2021, six Hispanic suspects drove through the teller window at Center State Bank in Polk County, FL and attempted to cash \$4,691.81 in counterfeit checks drawn on the legitimate payroll account of Gilman Farms in Polk County, Florida. All six were arrested. At least two suspects from the Gilman Farms case were later identified as passing counterfeit business payroll checks elsewhere.

Marshall's Riverbank Nurseries Investigation – July 2021, Maryland

On July 30, 2021, at least 15 suspects executed a scheme to cash approximately 226 counterfeit paychecks drawn on the legitimate payroll account of Marshalls' Riverbank Nurseries, Salisbury, MD. The counterfeit checks were passed in the District of Maryland and Delaware. The suspects executed the counterfeit check cashing scheme over the course of several hours at least nine sites, using a similar method of operation at each site. They passed or attempted to pass the counterfeit payroll checks at seven Bank of Delmarva branches on the Eastern Shore of Maryland and Delaware. Members of the same group passed fifteen additional counterfeit checks at Tia's Grocery store in Dover, Delaware and nine at Supertienda Ramirez in Georgetown, Delaware. Approximate losses suffered by Bank of Delmarva, Tia's Grocery and Supertienda Ramirez were \$170,000, \$15,000, and \$8,000 respectively. The following individuals were indicted on this investigation: Willian Issac RAMOS Rosales, Heylor Ariel HERNANDEZ Diaz, Juan Carlos TOSTA Fonseca (who is mentioned throughout our investigation), Roger Alexis CONTRERAS, Nieves Noel CASTILLO Garcia, Saul Anibal MAYES Ramirez, Mauro Alexis ROSALES Ramos, and Jordan REYES Donaire.

Empire Staffing Services Investigation – August 2021, Oregon

On August 20, 2021, multiple Hispanic suspects cashed 43 counterfeit checks on a valid Umpqua Bank account belonging to Empire Staffing Services in Independence, OR. The loss was approximately \$38,000. The owner of one victim establishment, the 7 Star Market, described at least five different people entering his store and cashing payroll checks in the name of Empire Staffing Services out of Salem, OR. When the owner discovered the fraud, he further explained that it appeared as though one person would come into the store and cash a check, then that person would leave out of sight, change clothes, and return to cash another check. The checks varied in amounts from \$864 to \$894. At least four suspects from the Empire Staffing Services case were later identified as passing counterfeit business payroll checks in the Maryland case and elsewhere.

Weaver's Orchard Investigation – September 2021, Pennsylvania

On September 2, 2021, multiple Hispanic suspects cashed a large quantity of counterfeit payroll checks on a valid Ephrata National Bank account belonging to Weaver's Orchard,

Morgantown, Pennsylvania. The total loss was approximately \$120,000. Several local law enforcement agencies in Pennsylvania reported “numerous Hispanic males” targeted several Mexican grocery stores and Ephrata National Bank with check cashing services with counterfeit checks and fictitious identifications. The suspects would exit the targeted establishment, change clothes and come back to cash checks in various names. At least three suspects from the Weaver’s Orchard investigation were later identified as passing counterfeit business payroll checks in the Maryland case and elsewhere.

Lanoha Nurseries Investigation – October 2021, Nebraska

On October 5, 2021, multiple Hispanic suspects cashed 204 counterfeit payroll checks on a valid First National Bank of Omaha account belonging to Lanoha Nurseries, Omaha, Nebraska. The total loss was approximately \$187,000.

The First National Bank of Omaha (FNBO) advised that multiple unknown suspects used false identification documents to fraudulently obtain funds from the business account of FNBO client Lanoha Nurseries by cashing counterfeit payroll checks. Over 190 fraudulent transactions took place at twelve FNBO branch locations. This list showed that 140 unique names and identity documents were used by the suspects who conducted these transactions. Each transaction ranged from \$722 to \$989, resulting in an aggregate loss of over \$177,000.

Additionally, La Mexicana y Mas, a specialty store in Omaha, reported that a group of unknown suspects had cashed 14 counterfeit payroll checks against the account of FNBO customer Lanoha Nurseries. Each transaction varied in amount from \$725 to \$789, resulting in an aggregate loss of \$10,613.

PROBABLE CAUSE

On October 12, 2021, a Source of Information (SOI #1) provided the following information: A group of individuals were conducting a scheme where they stole checks from the mail, washed the checks to change the payee, and then cashed the checks fraudulently. Fraudulent identifications were being made to match the altered payee names on the checks and bore the

likeness of the member of the group. The individuals involved in the scheme are of Hispanic descent, and the majority are from Honduras. The group had special keys to open the mailboxes and obtain the checks. The group would travel to various cities in Texas and to other states to cash the altered checks at various convenience stores. SOI #1 stated that Nitza Mayanin Portillo Hernandez (PORTILLO) and her husband, Juan Carlos Tosta Fonseca (TOSTA) recruited people to take on these trips to cash the altered checks. PORTILLO would provide the vehicle to transport the suspects out of town and receive a kickback from those she transported. SOI #1 explained that PORTILLO does not typically go on these trips but will coordinate the transportation for the group and also provide the car.

On October 18, 2021, a different Source of Information (SOI #2) provided the following overview of a scheme involving a group of Hondurans and other Hispanics who would obtain altered checks and take the checks to out of town locations and cash the checks with fictitious identifications: SOI #2 was introduced to TOSTA and PORTILLO around Oct 2020. SOI #2 stated TOSTA was the organizer of this group of conspirators, but there are other groups that do the same scheme. SOI #2 stated an unknown person gets the washed checks to TOSTA and TOSTA recruited trusted people to agree to cash the altered checks. TOSTA has fraudulent identifications made for the people who are going to cash the altered checks. The fraudulent identifications match the payee of the altered/washed check and bear the image of the suspects. The group travels out of Houston to other cities in Texas and to other states to cash the checks.

Specifically, SOI #2 stated that around May or June of 2020, TOSTA showed SOI #2 about 15-20 checks and explained the scheme and asked if SOI #2 wanted to participate. TOSTA told SOI #2 that TOSTA would make about \$8,000 for each out-of-town trip to cash checks. Conspirators would provide a kickback to PORTILLO for providing the vehicle to take the trips to cash the checks. SOI #2 stated that TOSTA also told him that they would get people to work for an out-of-town company for one to two paychecks and then quit. The worker would receive a paycheck from the company, bring the paycheck to TOSTA, and TOSTA or his conspirators would use that original check to create multiple copies. The group would then write in payee names on those payroll check copies and recruit people to cash the counterfeit checks. SOI #2 stated that

PORTILLO and TOSTA owned two vehicles, a white Malibu and a white Nissan Path Finder. The group used those vehicles to travel out of town to cash the checks. SOI #2 stated that on one occasion, TOSTA showed SOI #2 a Mexican passport with TOSTA's photo. SOI #2 asked how TOSTA had a Mexican passport if TOSTA was from Honduras. TOSTA told SOI #2 that the conspirators had people to get them Mexican passports. SOI #2 stated that he/she knew TOSTA, PORTILLO, Victor (PORTILLO's brother), Kathy (Victor's wife) and a male they called "Pando" were involved in the scheme. SOI #2 did not know the true name for "Pando," just his nickname. SOI #2 stated that Pando was a close friend of TOSTA, and Pando drove a black Chevy Malibu just like PORTILLO's Malibu. SOI #2 recalled that PORTILLO had an argument with Victor about Kathy (Victor's wife) using her vehicle to transport people to cash the checks and attempting to get kickbacks.

On November 4, 2021, a group of Hispanic males and one female fraudulently cashed checks at Novedades Ana, a store located at 308 Stoney Drive, Cactus, TX 79013. The group cashed approximately 31 fraudulent checks for an approximate loss of \$42,000.00. Some of the checks were payroll checks from Full Circle Jersey's, P.O. Box 1505, Dalhart, TX 79022. The incident was reported to the Cactus Police Department (Report #21001647), which I reviewed for this investigation. According to the investigation and store clerk, the group engaged in the same type of scheme that has been described throughout this affidavit: group members would cash checks, then exit and return in different clothing to cash more fraudulent checks.

On November 4, 2021, a group of Hispanic males fraudulently cashed checks at Joyeria Pisces, 116 W. 8th Street, Dumas, TX 79029. The group cashed approximately 41 checks for an approximate loss of \$54,900.00. The fraudulent payroll checks cashed were from Full Circle Jersey's and from M3 Landscape. The incident was reported to the Dumas Police Department (Report #20211160), which I reviewed for this investigation. Again, according to the investigation and store clerk, the group engaged in the same type of scheme that has been described throughout this affidavit: group members would cash checks, then exit and return in different clothing to cash more fraudulent checks.

On November 4, 2021, the Dalhart Police Department (DPD) arrested a group of Hispanic males who were cashing fraudulent checks at the Depot Discount Liquor, 621 US-87, Dalhart, TX 79022. When the store operators notified law enforcement, the suspects who were cashing the fraudulent checks fled the scene. Four suspects fled in a white Nissan Pathfinder and the others on foot. DPD recovered checks (some from Full Circle Jersey's) and suspected fraudulent identification cards. Surveillance video was obtained of the group cashing the fraudulent checks at the Depot Discount Liquor. Of the many fleeing suspects, Kevin Abel Soriano (possible alias), Adrian Pacheco Duarte, Rolando Aguirre, and TOSTA were arrested in this incident. The white Nissan Pathfinder that was recovered by DPD was registered to PORTILLO, TOSTA's wife. All of the information from the incident can be found on DPD (Report #202110577), which I reviewed for this investigation.

On November 5, 2021, SOI #1 and SOI #2 were shown various photographs from different counterfeit payroll check cashing incidents throughout various states. SOI #1 and SOI #2 identified a Hispanic male from photographs as "Pando." Through research and comparison of Pando's photograph with those in law enforcement databases, Pando was identified as Edwin Chavarria, who had previously been arrested under the alias of Martin Molina Salazar.

The following is a compilation of surveillance images and other evidence pertaining to the targets that were collected from other investigators throughout the United States.

EDWIN ZAVALA CHAVARRIA

Surveillance image and fictitious identification for CHAVARRIA from Nebraska investigation:



JERSON CHINCHILLA
3412 WASHINGTON ST OMAHA NE,
68107
(402) 817-0227



Surveillance image from separate Yakima, WA check theft investigation (not included in Relevant Conduct section above) where CHAVARRIA was reported to be the getaway driver:



Surveillance image from Pennsylvania investigation of Martin Molina Salazar (CHAVARRIA) compared to his mugshot:



Name: Martin MOLINA SALAZAR
Alias: Edwin Josue ZAVALA CHAVARRIA
DOB: 28/JUN/1987, 20/FEB/1990
COC/POB: Honduras
FIN: 1282799891

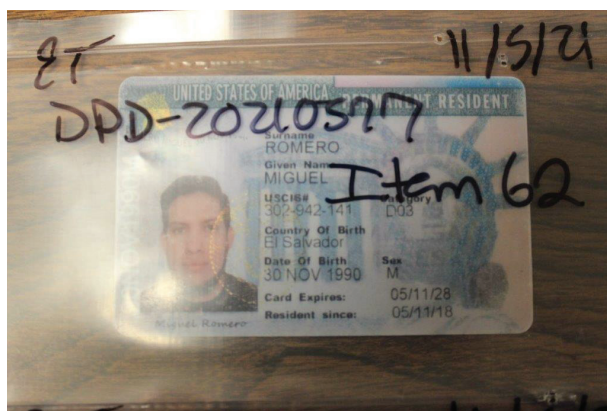
ADRIAN PACHECO DUARTE

Surveillance image from Pennsylvania investigation compared to an older mugshot:



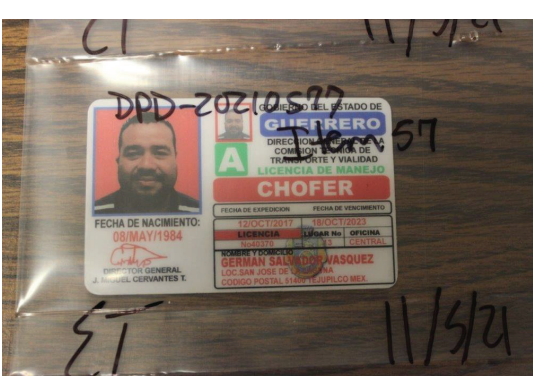
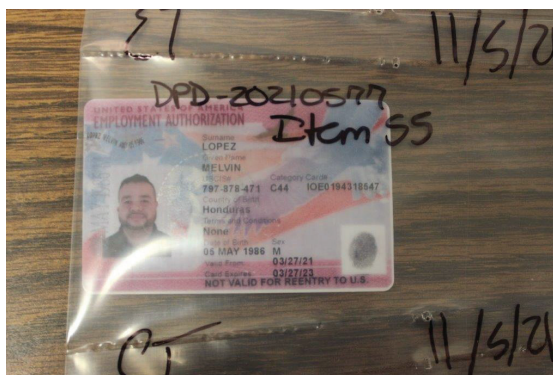
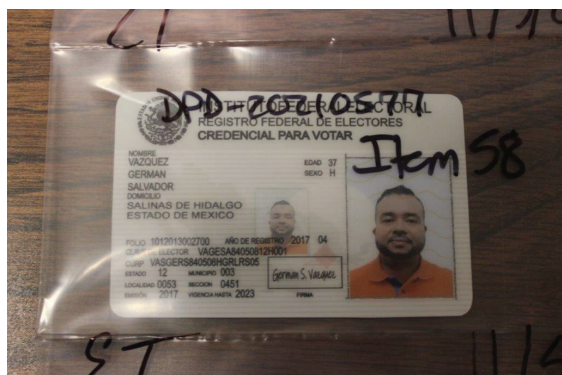
Name: Adrian PACHECO-DUARTE
DOB: 11/JUN/1999
COC: Mexico
FIN: 1220411585

Fictitious identification recovered by Dalhart PD for Adrian Pacheco:



ROLANDO AGUIRRE

Fictitious identifications recovered by Dalhart PD used by Rolando Aguirre:



JUAN CARLOS TOSTA FONSECA

Fictitious identification recovered in Pennsylvania investigation for TOSTA:




anela Mendoza, Oscar Orland



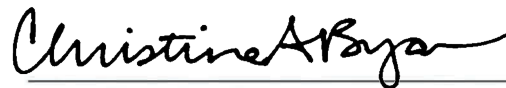
Sanchez Sosa, Tcmas

Based on the totality of the foregoing facts and circumstances, I believe that PORTILLO, CHAVARRIA, SORIANO, DUARTE, and AGUIRRE violated Title 18 U.S.C. §1344, Bank Fraud; Title 18 U.S.C. §1028, Fraud and related activity in connection with identification documents; and Title 18 U.S.C. § 371, Conspiracy. Further, I believe there is probable cause for the issuance of an arrest warrant for PORTILLO, CHAVARRIA, SORIANO, DUARTE, and AGUIRRE.



Andres Gomez
United States Postal Inspector

Sworn and subscribed to me by telephone on November 30, 2021, and I find probable cause.



Hon. Christina Bryan
United States Magistrate Judge
Southern District of Texas